

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

LONNIE MITCHELL,)
)
Plaintiff,)
)
v.) CASE NO. 2:21-CV-288-RAH-SMD
)
RICHARD M. HOSTON, et al.,)
)
Defendants.)

O R D E R

On September 23, 2021, the Magistrate Judge entered a Recommendation (Doc. 12) to dismiss this case without prejudice, specifically ordering that any objections were due on or before October 7, 2021. No timely objections were filed. On October 13, 2021, the Plaintiff filed a document styled as an “amended complaint,” wherein he challenged his federal conviction for unlawful possession of a firearm on the basis of selective prosecution and sought to “supplement the recommendation of the Magistrate Judge.” (Doc. 13.) The Court subsequently construed the submission as a motion to amend (Doc. 13) and denied the motion (Doc. 15).

To the extent the Plaintiff’s motion to amend may be construed as including an objection (Doc. 13) to the Magistrate Judge’s Recommendation to dismiss this case without prejudice, the Objection is due to be overruled. The Plaintiff’s claims which seek damages for actions that resulted in his pending federal criminal charges and/or conviction are not actionable under § 1983 if the claims would necessarily require him to prove the invalidity of his confinement. *Heck v. Humphrey*, 512 U.S. 477, 486 (1994). If the Plaintiff could

demonstrate that the challenged actions about which he complains resulted in him being wrongfully charged with criminal conduct and detained, such proof would necessarily invalidate his current confinement and any subsequent conviction. Any claim for damages the Plaintiff has under § 1983 would therefore be actionable, if at all, only when he demonstrates that the criminal proceedings ended in his favor, that his conviction has been overturned on appeal or in habeas corpus proceedings, or that his confinement has been declared illegal by some other judicial avenue. *Heck*, 512 U.S. at 481–82.

As discussed in the Recommendation, the Plaintiff's request for money damages is not cognizable in this proceeding based on the principle espoused in *Heck* which bars the Plaintiff from proceeding with his damages claim against the Defendants at this time.

Upon an independent review of the record and upon consideration of the Recommendation, it is hereby ORDERED as follows:

1. To the extent the Plaintiff objects (Doc. 13) to the Recommendation of the Magistrate Judge (Doc. 12), the Objection is OVERRULED;
2. The Recommendation of the Magistrate Judge (Doc. 12) is ADOPTED; and
3. The Complaint is DISMISSED without prejudice prior to service of process under 28 U.S.C. § 1915(e)(2)(B)(ii).

A Final Judgment will be entered separately.

DONE, on this the 16th day of November, 2021.

/s/ R. Austin Huffaker, Jr.
R. AUSTIN HUFFAKER, JR.
UNITED STATES DISTRICT JUDGE